MEMORANDUM

TO: Alan Clark
THROUGH: Dianne Reid
FROM: Elizabeth Kountis
DATE: February 15, 2012

SUBJECT: Proposed Reclassification of Two Segments of Maiden Creek and Two

Segments of Allen Creek in Catawba and Lincoln Counties (Catawba River

Basin) to Class WS-V (Action Item) (Elizabeth Kountis)

The Division of Water Quality (DWQ) is requesting that the Environmental Management Commission (EMC) grant staff permission to proceed to public hearing with the proposed reclassification of two portions of Maiden Creek and two portions of Allen Creek in Catawba and Lincoln Counties (Catawba River Basin). The Town of Maiden (Town) has requested that these creek portions be reclassified from WS-II Critical Area (CA) High Quality Waters (HQW) and WS-II (Balance of Watershed or BW) HQW to WS-V in order to recognize that these waters are formerly used public water supplies. Town council and staff understand that the Town cannot use these waters as an emergency (or permanent) source of public water supply once these waters are reclassified to WS-V. The reasons provided by the Town for the desired reclassification are as follows: the Town no longer uses and will not use these water supplies, as they are insufficient for modern water demands and the associated water treatment plant has been dismantled; an existing long term contract allows the Town to receive treated water from the City of Hickory currently and into the future; and other protective measures, namely the Phase II regulations, apply. Because these waters are no longer used as public water supplies, this reclassification will result in an updated, accurate representation of the current use of these waters, and thus, this proposal would serve the public interest per Executive Order #70 and Session Law 2011-398.

Staff with the Public Water Supply (PWS) Section of the Division of Water Resources (DWR) stated that the Maiden Creek intake and associated water treatment plant have been rendered inoperable and decommissioned, respectively, and thus, the plant will never be allowed to pump and treat water again. These staff also stated that although Allen Creek was approved for a raw water intake, the Town never built an intake structure in the creek, and utilized water from the creek a few times in the past during times of drought. Staff with the River Basin Management Branch and Water Supply Planning Branch of DWR stated that the Town should be allowed to have the waters reclassified because the Town is currently purchasing treated water and plans to do so in the future. An "Agreement for Plant Capacity and Bulk Water Sale" was signed in 2002 by the Town and the City of Hickory; this agreement allows for the sale of capacity rights in the City of Hickory's Water Treat Plant and treated water from the City of Hickory to the Town for 25 years.

DWQ has no water quality data for Allen Creek, and DWQ's data for Maiden Creek, which was generated after this creek was classified as WS-II, actually shows less than excellent (high) water quality as well as impairment. DWQ's sampling was not a part of routine monitoring, but rather occurred once in response to concerns about sedimentation from logging upstream of the water supply reservoir, and in another instance in response to a DWR request to sample below the reservoir as part of data gathering for consideration of minimum flows. Thus, it appears that the HQW designation was assigned to these waters solely due to the WS-II designation; all WS-II waters are HQW by definition. Given this information, EPA staff stated that the removal of the HQW designation should not be an issue for that agency.

Written support for the reclassification, albeit not required for this proposed rule-making, has been received from the local governments with jurisdiction in the existing water supply watersheds for the two creeks, which consist of the Town of Maiden, Catawba County, and Lincoln County. Written stances of support or neutrality for the proposal have been received from all parties involved in restoration efforts for Clark Creek, to which Maiden Creek flows. Portions of Clark Creek are impaired for fecal coliform, biological integrity, copper and/or turbidity. Finally, a verbal stance against the proposal has been received from the Catawba Riverkeeper.

There are currently 176 acres and 434 acres within the WS-II CA of Allen Creek and Maiden Creek, respectively, and 4,117 acres and 4,846 acres within the WII (BW) of Allen Creek and Maiden Creek,

respectively. The waters within these two water supply watersheds proposed to be reclassified to WS-V are as follows:

- A segment of Maiden Creek from source to a point 0.7 mile upstream from backwaters of Maiden Reservoir, which is currently WS-II HQW;
- Bee Branch from source to Maiden Creek, which is currently WS-II HQW;
- another segment of Maiden Creek from a point 0.7 mile upstream from backwaters of Maiden Reservoir to dam at Maiden Reservoir, which is currently WS-II HQW CA;
- a segment of Allen Creek from source to a point 0.7 mile upstream of Maiden water supply intake, which is currently WS-II HQW; and
- another segment of Allen Creek from a point 0.7 mile upstream of Maiden water supply intake to Maiden water supply intake, which is currently WS-II HQW CA.

If reclassified, several significant restrictions regarding wastewater discharges, new development, new landfills, and new land application sites will no longer apply to these water supply watersheds. However, there is no requirement that the ordinances of the involved local governments be amended should the reclassification become effective. In addition, Phase II rules already apply in the proposed areas, except 87 acres in Lincoln County, and compliance with WS-II stormwater and density rules equates to compliance with Phase II rules. Should the reclassification become effective and local governments decide to no longer enforce the regulations associated with the existing classifications, compliance with Phase II rules would be required along with existing local government regulations. This combination of rules would apply substantial, albeit not as stringent, restrictions on new development compared to the restrictions associated with the existing classifications of the subject waters and existing local government regulations. Finally, the water supply water quality standards will remain in effect for the subject waters due to the proposed WS-V designation.

According to Mooresville Regional Office staff, there are currently no permitted or known planned wastewater discharges in the proposed areas, and in the existing WS-II CAs, there are currently no permitted or known planned landfills or application sites. According to local government staff, there is no known planned development in the subject areas. The subject areas contain very limited development; these areas are primarily a mixture of undeveloped forested and pasture lands, which the WS and HQW rules as well as Phase II rules do not affect, so such land uses will not be impacted by this reclassification. Given this information, and that there is no requirement that the ordinances of the involved local governments be amended should the reclassification become effective, the quantifiable results of the proposal's fiscal analysis showed no cost to local municipalities and counties and a one-time cost of \$355 to the state.

Staff recommends sending this item to the March 2012 WQC meeting to request permission to proceed to the full EMC at their May 2012 meeting. The estimated effective date of this proposal is March 1, 2013.